

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SANTOS GARZA,

Plaintiff,

CIVIL ACTION NO. 08-CV-11892-DT

vs.

DISTRICT JUDGE MARIANNE O. BATTANI

FORD MOTOR CO.,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendant.

**OPINION AND ORDER
GRANTING PLAINTIFF'S MOTION TO AMEND COMPLAINT**

This matter comes before the Court on Plaintiff's Motion to File First Amended Complaint filed on September 4, 2008. (Docket no. 10). Defendant has not filed a Response, and the time for responding has now expired. (Docket no. 12). This motion has been referred to the undersigned for decision. (Docket no. 11). The Court dispenses with oral argument on this motion. E.D. Mich. LR 7.1(e). This motion is now ready for ruling.

Plaintiff wishes to amend his Complaint in this matter to add a claim under 42 U.S.C. § 1981 pursuant to Fed. R. Civ. P. 15(a). (Docket no. 10). Rule 15(a) provides that a party may amend its pleading once as a matter of course prior to service of a responsive pleading or within twenty days of serving its pleading if no responsive pleading is required. Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). The decision whether to permit amendment is committed to the discretion of the trial court. *Lucas v. Schneider Nat'l Carriers, Inc.*, 953 F.2d 644, slip copy at *5 (6th Cir. 1992) (unpublished).

A responsive pleading has been served in this action. (Docket no. 4). Therefore, either leave of court or a written stipulation is required. Defendant has refused to stipulate. (Docket no. 10 ex. 1). However, Defendant has not filed a Response brief. Therefore, this is an unopposed motion. Discovery closes in this action on January 30, 2009. (Docket no. 8). This Court finds that justice requires allowing Plaintiff to amend his Complaint.

IT IS THEREFORE ORDERED that Plaintiff's Motion to File First Amended Complaint (docket no. 10) is **GRANTED**. Plaintiff shall file his Amended Complaint on or before October 3, 2008.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: September 23, 2008

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated: September 23, 2008

s/ Lisa C. Bartlett
Courtroom Deputy